Case: 3:12-cv-01544-JJH Doc #: 28 Filed: 01/29/14 1 of 49. PageID #: 359



IN THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO WESTERN DIVISION

SHAWN C. NORTHRUP,

Plaintiff,

:

v. : Case No:

3:12-CV-01544-JJH

Judge Helmick

CITY OF TOLEDO, et al.,

Defendants.

Deposition of SHAWN C. NORTHRUP, a

Plaintiff herein, called by the Defendant as upon

Cross Examination pursuant to the Federal Rules of

Civil Procedure, taken before Vicki L. Plant, Court

Reporter and Notary Public in and for the State of

Ohio, at the offices of Lydy & Moan Ltd.,

4930 Holland-Sylvania Road, Sylvania, Ohio, on

Thursday, January 9, 2014, commencing at 9:00 a.m.



Reporting Service, Inc.

2 INDEX Deposition of SHAWN C. NORTHRUP: Page/Line E X H I B I T SPage/Line NONE MARKED O B J E C T I O N SEntered by Page/Line MR. ELLIS..... 25 11

1 APPEARANCES: 2 On behalf of the Plaintiff: 3 LYDY & MOAN LTD.: Daniel T. Ellis 4930 Holland-Sylvania Road 4 Sylvania, Ohio 43560 419-517-7741 5 On behalf of the Defendants: 6 CITY OF TOLEDO DEPARTMENT OF LAW: 7 John T. Madigan One Government Center, Suite 2250 Toledo, Ohio 43604 419-245-1020 8 9 10 SHAWN C. NORTHRUP, being first duly sworn, as hereinafter certified, 11 testified and said as follows: 12 13 MR. MADIGAN: Dan, can we have the 14 usual stipulations as to the qualifications of the court reporter? 15 I'm sure she's 16 MR. ELLIS: 17 qualified. 18 CROSS EXAMINATION 19 BY MR. MADIGAN: 20 Mr. Northrup, my name is John Madigan as you 21 probably know already, I'm the attorney for the City of Toledo, and we're here to take your 22 23 deposition, and you sat through the other ones so 24 you know what to expect. 25 I'm going to be asking you questions regarding

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6
 1
            Did you get a degree from the University of
      Q
 2
            Toledo?
 3
      A
           No.
            Did you get any type of certification from
 4
      0
 5
            Statzenberger?
            Yeah. I got a certification for computers,
      A
 6
 7
            yeah.
 8
      Q
            When was that that you got that?
           Maybe 1999, 2000, somewhere around there.
 9
      A
           And do you live with anyone right now?
10
      Q
11
           With my wife and my daughter.
      A
12
           And that's on Dulton Street?
      Q
13
      A
           Yes.
14
           Is your wife employed?
      Q
15
      A
           Yes.
16
           Where does she work?
      0
17
           Toledo Public Schools.
      A
           Are you a member of any organizations, clubs, or
18
      Q
19
           associations?
20
           I'm a member of the NRA.
      A
21
           National Rifle Association?
      Q
           Yeah. And I'm a member at Adams Conservation
22
      A
23
           Club.
           And any other organizations that you are a member
24
      Q
25
           of?
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1 A No.

- Q How long have you been a member of the National Rifle Association?
- A As long as I can remember, maybe the last

 15 years. I subscribe yearly.
- 6 O You're not a lifetime member?
 - A No, I just renew a subscription every year.
 - Q Calling your attention to June 16, 2010, what were you wearing that day that you had this encounter with the Toledo police department?
 - A Tennis shoes, white khaki shorts, and a T-shirt.
 - Q Did any of these items that you were wearing have any letters or words written on them?
 - A The particular shirt I had, yeah. It said, this is the shirt I wear when I don't care, and it was something my wife got me. It was like \$5, so it would be like a work around the house shirt, had holes in it. That particular day I had been putting a radiator in my car.

She came home from work and said, honey, you want to go for a walk, and I said, yeah, sure, let's go. So I didn't think anything of the shirt, didn't change clothes, we just asked the kids if they wanted to go for a bike ride and they said, yeah, so off we went.

8 How many children did you have with you? 1 Q 2 I had my daughter and my grandson. A 3 How old is your daughter? Q My daughter right now is 16, then she would be 11 4 A or 12. This was four years ago, almost three and a 5 half years ago. 6 And your grandson was her son? 7 Q A No. 8 9 0 You have another child? My wife was previously married and had -- she was 10 A married so I have a stepdaughter and she's older 11 and she's had a child. That would make my step 12 13 grandson, my grandson. I get the picture now. Not your 11-year-old 14 0 15 daughter's son? 16 No. A You were walking on what street when you 17 Q 18 encountered the police department? 19 A I believe it was Hayes. 20 And you were wearing a gun at that 0 Okay. 21 time? 22 Α Yes. 23 Do you wear a gun every time you go out for a Q 24 walk? 25 A Yes.

- 1 Q And why do you wear a gun every time you go out 2 for a walk?
 - A Well, there's several reasons. I mean, don't exactly live in a great neighborhood, but it's not a bad neighborhood, but bad things can happen to good people at any time. I take security of my family seriously, I take my personal security seriously, and I'm an advocate for firearms to educate people to let them know they're okay, they're not dangerous. Open carry is a lawful activity.
 - Q On that particular day, was it nighttime, morning, afternoon, evening that you were walking?
 - A I'm saying it was early evening, it was summertime, very bright out.
 - Q Have you had problems with criminal activity from any of these walks that you've taken?
 - A Yeah.

- Q What type of problems?
 - A Dulton and Rochelle, two times we were confronted with a pit bull. One of the houses alongside of a carry out there, and it was always off leash and the one particular time that this happened that really scared us, we were all walking, kids on the bikes, I always carry the dog on its leash. I have

a Yorkshire terrier, he's like ten pounds.

We're walking along talking, all of a sudden his leash went taut, and I turned around and looked and he's nose to nose with the pit bull, and I didn't see where it came from. I turned around, oh, my God, what's going on, I thought he was going to eat my dog. My dog is urinating, and luckily the pit bull was wagging its nubby tail, and I'm like, okay, I started pulling my dog back. And it didn't attack my dog, but it could very well have and there would have been nothing I could have done about it because I didn't have my firearm on me, it was covered up, it was tucked in my shirt.

I don't know if I would have shot it, who knows what would have happened, but I felt at that time I should open carry so it would be more readily available. Also it's more comfortable too because it's so hot out in the summertime.

- Q This incident happened when?
- A Well, we've been going on these walks regularly since early spring, since the weather broke. We'd been walking that route dozens and dozens of times. And when did that happen with the dog, I think April, May maybe that happened.
- Q Of 2010?

A Yes, I believe so.

- Q Was that the only incident you had with dogs or hostile people?
 - A No. That same dog, like I said, it was usually off leash, and the owners weren't home. It was a rented house, there were kids. Every time I saw the dog it was kind of wondering around. And we didn't see it in the yard sometimes when we'd be walking by, and all of a sudden, it's there trailing us, following alongside of us, you know.

We'd just kind of shoo it off, go home, go home. The neighbors would see this.

- Q So that dog never attacked you; is that what you're saying?
- A It didn't attack, but you didn't really know what its intentions were being it was a pit bull, and a lot bigger than my dog.
- Q Did you have any contact with people that would cause you to fear for your safety during these walks?
- A No.
- Q Let me ask you this: Have you ever been convicted of a felony offense in the State of Ohio?
- 25 A No.

23 A Instead of battling out in court and spending a
24 whole bunch of money that I didn't want to have to
25 spend like everybody does, and I'd never been

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through the court systems, so I made a bad
 1
           decision on the first attorney, bad decision on
 2
 3
           the second attorney, and I ended up taking a plea
 4
           bargain.
           What did you plea to?
 5
      Q
           Disorderly conduct.
 6
      A
           Was that as a minor misdemeanor or misdemeanor
 7
      Q
           fourth degree?
 8
 9
      A
           I don't know.
                   MR. ELLIS: Minor misdemeanor.
10
           You didn't do any jail time in other words?
11
      Q
           No. Just the day or so in jail that I was
12
      A
13
           there.
           But after you pled no contest or quilty, you
14
      Q
15
           didn't do any jail after that, did you, for
16
           that?
17
      A
           No.
18
                   MR. ELLIS: Minor misdemeanor, he
19
                   paid a $75 fine.
20
      Q
           That was in what year?
21
      A
           2008.
           That's the only prior police contact you've ever
22
      Q
           had?
23
24
      A
           No.
           Okay. What other police contacts have you had?
25
      Q
```

- A Police contacts or police arrests?
- Q Let's go with arrest first.

A You asked arrest earlier, it was that. The other one was I got pulled over for speeding and I didn't have insurance, I think I just got a ticket then.

But then I was driving before without insurance and I got taken to jail for that. Suspended driver's license, I want to say it was 1991, something like that.

I'm trying to think. I think it was '92 or '93 I was arrested for speeding -- I was pulled over for speeding, the officer asked me if I had been drinking, and I said I was at the German American Festival. And she goes, well, have you been drinking, I said I had a couple beers. She goes, well, since you admitted to me that you've been drinking, I'm going to write you up for a DWI, but when you get downtown and take the breathalyzer, and you pass the breathalyzer and everything is fine, you can go home.

And I said, okay, fine, I mean I can't really argue with her. So she arrested me, took me downtown, took the breathalyzer, passed the breathalyzer, but I was arrested.

Q And there was no charge filed against you for

1 that?

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- A They dropped the charges of the DWI, but I think they plead down to reckless operation of a vehicle because how could she tell -- the thing was, she told me I was speeding, but I was behind her. How can I be speeding if I'm behind her, you know.
 - Q Is that the end of your police arrests?
 - A Arrests, yeah, not encounters.
- 10 Q Prior to June 16, 2010, and your encounter with
 11 the Ottawa Hills police, had you ever been stopped
 12 or questioned regarding a weapon?
 - A Yes.
- 14 Q When and where was that?
- 15 A That was in my own yard.
- 16 | O That's on what street?
- 17 A 111 Dulton Drive, Toledo, Ohio.
- 18 Q When did that happen?
- 19 A That happened in 2008, might have been May, early spring, by the Toledo Police.
- 21 Q Tell me what happened there.
- 22 A You want to know. I was outside, we got home from
 23 grocery shopping, I had my whole yard landscaped
 24 and stuff like that. I was out front, you know,
 25 looked really nice in the spring, and I try to keep

it nice looking year around.

I have maple crimson trees, they have those little whirlybirds and seedlings start all over the place. So I went out there, we just got done putting groceries away, and she was going to start making dinner. I said, I'm going to walk around the yard, pull these things out, pull weeds, whatever.

So I was out front underneath my tree pulling weeds, the little whirlybird baby maple trees, and I heard a car drive by, several cars drove by, and my back was to the road. I had a cover shirt on, it was kind of breezy that day.

And the next thing I hear is, do you have a license for that. And I looked over my shoulder as he's saying this and I turn around, and there's a police car pulled in my yard and there's a guy standing there, you know, do you have a license for that.

And I said, can I stand up and turn around, and he said, yeah. And I said what's going on. He goes, do you have a permit for that. I said, permit for what. He goes, the gun, and I said, yeah, I do, but I'm on private property, I really don't need to have a permit for it.

And he asked me for my permit, I said, well, can I reach in my back pocket and get it for you. At the time I had a chain on my wallet, so I said, it's hooked on the chain, I'm just going to pull it out because it's on my right side where my gun is, and was wearing a cover shirt.

And I opened it up and said there's my gun,
I'm going to pull out my wallet because I didn't
want to get shot in my own yard. And I gave my
concealed carry permit, and he went back to his car
and he was running that, doing whatever he does
with it.

And I got on my cell phone and called my wife, and I said, you better get out here right now. So she was in the process of coming out. And then I called my friend, which is a Toledo police officer which I just saw when I picked my daughter up at school a couple hours earlier, and I was going to call him.

And the officer got out of his car and he said, you're making me nervous. And I'm like, what, I'm making you nervous. He says, yeah, you're making me nervous with that gun, I'm going to take it. I'm like, okay, how are we going to do this, you know, he wasn't giving me any

instructions. He said he wanted my gun, I didn't know if I was supposed to hand it to him or what.

So I said, what are we going to do. I mean, if you want to take it, I turned my body to him, it's right here, I opened up my shirt, go ahead and do what you got to do. He came over, took my gun, and then went back in the police car again.

At the time my wife was out there, and I said, I'm going to call so and so, and I called my friend who was an off duty cop, and just as I was talking to him, two other police cars come up from two different directions, came skidding to a stop.

I got a hold of my friend on the phone, I was like, hey, this is Shawn, can you come over to my house right away.

And right then and there, the one officer tackled me over the hood trunk of the car, took my phone away, threw that, closed it, snapped it closed, threw it. Reached into my pocket, grabbed a hold of my scrotum, squeezed, twisted, and I'm like, what is going on here, what are you guys doing this for.

I didn't understand it, I'm in my own yard minding my own business. And then he patted me

down, gave a nod to Officer Number 1, he's good, he's okay, he's clean.

So then I just stood there, with my wife, and all my neighbors looking out, my neighbors here, my neighbors over here, my neighbors across the street, neighbors over there, people stopping in the street. This whole ordeal thing is going on in my yard.

Whatever he was doing in the car, he was checking serial numbers on my gun to see if it was stolen or something because I saw him holding it up and calling something in.

So I asked one of the other two officers, I said, can you get a superior officer out here or something because this is ridiculous and they're like, yeah, one is on the way.

So anyway, Officer 1 got out of the car and they all stood three in a row, and we're in my yard and he's telling me how I should carry my gun. You got a concealed carry permit, you need to keep it concealed. When I drove by, the wind blew your shirt up, and I saw it. And I said, what business is it of yours -- you're on my private property right now, why do I have to show you my ID, my concealed carry permit on private property, you're

trespassing, I told him he was trespassing, leave my property, he didn't. Then he continued to lecture me on how to carry a firearm.

All three of them doing this with their finger pointing it at me, and the one big guy that threw me over the hood of the car, I said, you know what, guys, I don't need to listen to this. I'm going to go in my house, am I free to go. No, you're not free to go.

And I told them I wasn't going to listen to this, I said I don't need to listen to you guys, you don't know what the heck you're talking about, and that's when Officer Number 1 came up to me and did one of those grabs on my elbow and squeezed it on the nerve, and he said, that's it, you're going in the car.

The next thing you know I'm sitting in the backseat of the car with my neighbors getting in their cars, driving by looking at me sitting in the backseat of a car. And my wife is calling 911.

- Q Let's get to the end of this. Did you get charged with anything?
- A Don't you want to hear what the officers did to me?

Q No, I don't. I just want to know what happened; how did it end?

A It ended in -- superior officer showed up, my
friend that I called that was off duty that day
showed up. The other officers looked at him like
what are you doing in our crime scene, get the heck
out of here. He explained to the sergeant,
Sergeant McCaleb, how he came to be there, that I
called him.

The police officers and Sergeant McCaleb talked for a while, then she came over to the car, opened up the door, and said, Mr. Northrup, you can get out of the car now. I said, okay, am I free to go, can I have my permit and my gun back, and she said, yes, you may, sir. She gave me my firearm and magazine and my concealed carry permit.

And my wife and I told her we want a report made because these officers patrol in this neighborhood, we live in this neighborhood, this was uncalled for, it was unprofessional. It was uncalled for, you know, and I just wanted a report made. And she said, I promise you we will make a report of this, and we emphasized how much we wanted a report made because I didn't want this happening again. This was in my yard.

- 1 Q Let me ask you this: Did you make an internal affairs report of that incident?
 - A I tried. Do you know who I talked to?
- 4 0 No.

- 5 A It was Sergeant Russell, internal affairs. Do you know her?
- 7 O No.
 - A She refused to take my complaint. She said, I'm not going to take your complaint, I can't do that.

 Do you have any proof that this happened. I said, no, what do I have to do come in here with a videotape.
 - Q Let me go to another question: Did you take any legal action against the officers as a result of that incident?
 - A No. I did call the chief of police. We tried going that route, we wanted to talk to him, and tell him what happened. I called Sergeant McCaleb, she told me to call her Friday because she'd have the report, the incident report. When I called her, she said, oh, well, I talked to the detectives bureau and they said it wasn't necessary to make a report. So there is no report.
 - Q After this incident, how did you feel toward the Toledo police officers in their approach to people

carrying guns?

- A How did I feel?
- Q Yes. Do you feel like they treated people fairly or treated you fairly?
 - A I thought they were unprofessional.
 - Q Did you feel that you were being singled out because of the fact that you carry a gun regularly around that neighborhood?
 - A No.

- Q Going back to the carrying of your weapon, you say you use it for protection. Have you ever used it to stop a criminal act in progress?
- A I don't know, it's kind of hard to say. I talk to my neighbors quite a bit or they talk to me because I open carry around my yard, and my neighbors allow me in their yard, open carry, it's fine with them. They say they feel safer.

Last year there were a lot of break ins
throughout the neighborhood, and they hit every
house in the neighborhood surrounding us except for
our street. And that's when my neighbors came up
to me, and they said, hey, maybe it's because you
open carry and they decided not to come down our
street or whatever.

I guess, well, if I was a criminal, I'd drive

- by the houses, see who's home, who's working, and 1 2 who's not. Well, that guy has a gun. I guess I'll 3 move on to the next neighborhood. So does it deter any crime, I don't know, maybe it did or maybe it 4 5 didn't. Do you see yourself as like a neighborhood watch 6 Q 7 person? 8 Α No. I take my security seriously, it's not my job to protect anybody else. That's up to the Toledo 9 police. 10 Well, let me ask this question: Do you think the 11 Q Toledo police do a good job of protecting you and 12 13 your neighbors in your neighborhood? Do I think they do a good job? 14 A 15 Yes, from criminal activity. 0 I don't know how to answer that really. 16 A 17 you trying to get at; can you rephrase it? 18 Do you think the Toledo police presence in your 0 19 neighborhood deters crime? 20 I've never seen the presence in my neighborhood A until that day when they stopped in my yard. 21 never noticed them. 22 You're saying the police ignore your 23 0
 - A No. I'm just saying I never noticed them, they

neighborhood?

24

never noticed me. I really never had to call the police on anything suspicious in the neighborhood.

I'm just trying to figure out what kind of neighborhood you live in. You talked about first of all kind of having criminal problems and now you're saying that there's no need for police activity because it's a pretty safe neighborhood.

What is it, is it a safe neighborhood or an unsafe neighborhood?

MR. ELLIS: I'm going to object to the characterization of his testimony, which is incorrect, and also the manner in which he's asked a compounded question, and it's also argumentative.

Now, John, if you wouldn't mind, if you would make it simpler and non-compounded, and let him answer, please.

- Q Do you feel you live in a safe neighborhood?
- A I would say relatively safe, and relatively is the key word there.
- Q Why do you say relatively safe?
- A Crime can happen anywhere at any time to anybody.

 Doesn't matter your income level, your race, color,

creed, doesn't matter. Random acts of crime happen 1 2 all the time. 3 Has there been any criminal acts committed against 0 you and your family in that neighborhood? 4 A 5 No. Going back to the dog incident, which you talked 6 0 about earlier, did you report that stray dog at any 7 8 time to the Lucas County Dog Warden? They wouldn't do anything, no, that's why I 9 A didn't. It was usually hanging around the guy's 10 house, I didn't really ever see it chained up, but 11 none of the other neighbors called the Lucas County 12 13 Dog Warden either or they might have and they might have not done anything about it. I don't know. 14 To answer my question: Did you contact the 15 Q 16 Dog Warden? 17 A No. 18 MR. ELLIS: Shawn, you've got to 19 answer his question or it will take all 20 day, we'll be here all day. Let's go back to June 16, 2010, again. The man 21 Q that you had the initial encounter with was 22 Allen Rose; you know that don't you? 23 Yeah, I know that now. 24 A

Prior to that date, had you ever met Mr. Rose?

25

Q

- A No, not personally, no.
- 2 Q Did you know him at all; did you know who he was?
 - A I didn't know who he was. I've seen him just because he rides a motorcycle. I mean, I like motorcycles, I like old cars, I just notice those things. So, yeah, I've seen him in the neighborhood. He rides a Harley.
 - Q Had you and him ever had any conversation before June 16, 2010?
 - A No.

- Q Going to Mr. Rose, tell me exactly how that incident happened with Mr. Rose on that date?
- I was walking with my wife, my dog, had the two kids, my daughter and my grandson, they were on their bicycles, and we had been taking walks for weeks and weeks, same route.

And we were going down our street, Dulton, and we got to the intersection of Dulton and Rochelle, and an old canary yellow '55 pickup truck went by, which I was looking at, and then the motorcycle, which I looked at the motorcycle.

He went to the intersection of the light, and we're still walking just turning the corner away from them, these vehicles were going the opposite

direction, and the guy on the motorcycle went to the light and turned around and came back through the carry out. And we're still walking and we're walking not paying attention anymore, and apparently the guy drove his motorcycle to the very back end of the parking lot and got off the bike.

We're walking -- I mean, I heard someone talking or saying something, and we looked back, and it was the guy that was on the motorcycle that was now off the motorcycle walking through yards paralleling us on Rochelle, and saying something to us.

So we eventually stopped for a moment to see what he was saying, and he was saying, you can't do that, you can't walk around carrying a gun like that. Saying, hey, hey, hey, you can't do that, you can't walk around with a gun like that.

Q What did you say?

Α

I didn't say anything to him at that moment. My wife had said open carry is legal in Ohio, we're not doing anything wrong, you know, my wife said that. I was like come on, honey, and kind of grabbed her hand and said let's keep going. And we started walking away and he still keeps following

in the yard. And he's yelling things, and he kept going. He was kind of being belligerent.

Q What was he yelling?

He just kept saying, hey, you can't do that, you just can't be walking around the neighborhood with a gun on like that. And my wife was trying to tell him -- and I'm like, honey, listen, this guy is being aggressive, he's following us, let's just keep moving, let's mind our own business. You're not going to explain things or change his mind in any way.

He kept saying that. The only thing I said to him was, I said, what are you a cop, are you a police officer, and that's when the profanities flew. And he started cussing and swearing, and that was it. I said we're out of here, we kept on walking.

- Q During this encounter did you fear for your safety?
- A I don't know if I'd necessarily say I feared for my safety, but I was in fear that this guy drove past us, backtracked, came back, and was aggressively on the other side paralleling us, following us. I didn't see a weapon on him, I kind of felt safe, but it was really weird that some man

would be approaching a guy with a gun telling him he can't do that and yelling stuff.

So I didn't know what his intentions were other than he didn't like the fact that I was carrying a gun and said I couldn't do it, and I just wanted to disengage and keep on moving down the road with my kids. I had my kids with me, this guy is cussing and swearing. I don't want my kids hearing that stuff, so I was trying to push everything down the road.

- Q Did you reach for your gun at that time?
- 12 A No.

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- 13 Q Did you put your hand on your gun?
- 14 A No.
 - Q You said Mr. Rose did not have a gun?
- 16 A I didn't see anything on him, no.
- 17 Q When he was yelling and swearing at you -- I'm

 18 trying to get this straight -- was he on the

 19 motorcycle or was he off the motorcycle?
 - A He was off the motorcycle. He had parked it in the carry out, and walked through people's yards following us.
 - Q Was he on the other side of the street from you at this time?
- 25 A Yes.

My kids are riding their bikes, there's no

25

A

sidewalks or anything like that, so we have them ride up and go up two houses and turn around and keep doing a loop. So my daughter was coming back and she's like, Daddy, there's a police car coming down the street. So I got my phone out, got my recorder going. I kind of anticipated this. I figured that guy was weird as he was, my wife saw him on the phone up by the street as we're walking, she looked back and he was on the phone.

- Q Let me stop you for just a second. You're talking about Mr. Rose was on the phone?
- A Yeah, she saw him on the phone.
- Q Go on.

A Then my daughter was turning around and she says,

Daddy, there's a police car coming up, okay, honey,
thanks, just keep riding your bike. So I got my
phone out and started recording, and shortly
thereafter I hear, hey, excuse me, something along
those lines. And we stopped and I had my phone
here and a dog leash here, and he said, excuse me,
can you turn around, and I turned around. It was a
police officer.

MR. ELLIS: Excuse me for a minute.

Would you let the record reflect he was
holding his hands in front of him when he

was describing that.

Q Go on.

Q

- A What do you want to know next?
- Q What happened next.
 - A I was turned around and my phone in one hand about this level, shoulder height, and my retractable dog leash in the other hand, my wife is beside me --

MR. ELLIS: The leash is in his

right hand and phone in his left hand.

- A He said what's your name, and I told him I'm
 Shawn Northrup, he kept walking closer, he had his
 hand on his firearm, and he said he's going to
 remove my firearm. And I said, okay, go ahead. He
 told me turn around and he said if I go for the
 weapon, he's going to shoot me. Right then and
 there my daughter starts balling hysterically.
 Don't worry, you know. And he takes my firearm, he
 has me hand over the dog leash to my wife, which I
 - did, I still had my phone in my hand, he took my gun and he said I could turn around, which I did, and I still had my phone in my hand recording -- Hold on for just one second. Which side of your
- A On my right side.

body was your gun on?

O Go ahead continue.

- A It was on my right hip. So he had my firearm and tucked it under his arm, left arm, and then he said, do you have a driver's license and I said, yes, and he said, can I see it. I'm like, is it okay to reach and get it, he said, yep, go ahead and get it. So I got out my wallet and gave him my driver's license, and at that point, I had my wallet in my hand and phone in my hand still.
- Q How many times did the officer ask you for your driver's license?
- 11 A One time.

- Q How long after he asked you did you give it to him?
- A Immediately after I asked if I could reach into my back pocket and get it out of my wallet because I didn't want him shooting me, he already said he was going to shoot me. I didn't want to make any sudden moves, I didn't want to give him any reason to shoot me, I didn't want to be shot in front of my daughter.
- Q Just answer the question, please. I don't need the narrative. You had already given him your -- he had already taken your gun away?
- A Yes.
- Q You didn't have your gun anymore when he asked for

your license?

A Correct.

- Q Go ahead, what happened after you gave him your license; what did he do, what happened?
- A I gave him my license, he looked at it -- the only thing I really said to him at that point was what's this about, and he said he was conducting an investigation, you know, I'm conducting an investigation right now and I'll let you know in a little bit here once I figure stuff out.

So I knew right then and there he was conducting an investigation, obviously I'm the object of his investigation. He just came up, disarmed me, I wasn't doing anything wrong, I wasn't breaking any laws, walking down the street with my kids. Hadn't done anything recently, so I had my gun and my ID.

I did ask him what was going on, and he said

I'm conducting an investigation. And then he asked

for if I had a concealed carry permit to carry.

And at that point, I said, well, am I free to go,

am I under arrest here, and he wouldn't answer me.

And he kept on asking questions, do you have a

concealed carry permit, and he's being really

forceful and really aggressive, and I knew at that

point he's up to no good.

And I said am I free to go and he wouldn't answer. He turned to my wife and said, does he have a concealed carry permit, and my wife said to him, you've got his gun, you've got his driver's license, you can find out for yourself, something along those lines.

Then he came back to me and goes, you know, I can arrest you for inducing panic right now. Do you have a concealed carry or not. And I said, I have nothing to say to you, Officer. Am I free to go and he turned back to my wife, and says, listen, I'll take him to jail, he'll spend the night in jail tonight. Do you want your husband to go to jail, do you want him to go to jail.

And he looked back at me, he's like, I will take you to jail, I will arrest you for inducing panic. He goes, do you have a concealed carry permit, this is the last time I'm asking you. And I said, am I free to go. He goes, okay, you're under arrest, turn around, put your hands behind your back. I still had my phone and my wallet in my hand, can I give this to my wife. Handed her the phone, handed her the wallet, and turned around and put my hands behind my back.

He handcuffed me really tight and I asked him 1 2 to loosen them up, which he did something and said 3 he loosened them up, but I still told him, these are way too tight. I don't know if he was doing 4 that because he was mad at me because I wasn't 5 answering his questions. He seemed really 6 agitated, being really aggressive with me, raising 7 8 his voice, being assertive and demanding and stuff. I was asking him if I was free to go because if I 9 wasn't under arrest, I wanted to leave. 10 So what happened after he put you in handcuffs? 11 He did something with the cuffs, but they were 12 A 13 like still too tight, and put me in the car. 14 0 What part of the car? 15 Α In the backseat. 16 Then what happened? 0 17 I sat there in the car. A 18 What did you officer do? 0 19 A I couldn't hear him, but I could see him walking 20 around doing stuff. Did any other officers come at this time? 21 Q Yes. I had been in the backseat for a few minutes 22 A 23 maybe, and a police car pulled up behind us kind of, and then within a minute or so after that 24

another police officer showed up.

- Q Did you hear what those officers had to say, if anything?
 - A No, but they were talking quite a bit.
 - Q What did any of the officers do with you?
 - A Well, before the other two officers arrived,
 Officer Bright was asking my wife and doing the
 finger pointing. He was probably asking her, did
 he have a concealed carry permit. I don't know
 what he was saying, it was hard to hear, the radio
 was on in the car, but I could see that he was
 really grilling her, interrogating her, trying to
 get information about me or what not. Now I know
 after talking to my wife, yeah, that's what he was
 doing. And she refused to answer any of his
 questions. She told him, you've got his gun,
 you've got his driver's license, all the
 - Q But you didn't answer my question. What did
 Officer Bright eventually do with you or any other
 officer?

information is right there.

- A Well, eventually he would release me after about 35, 40 minutes, but in the meantime he was consulting with who I know now was Sergeant Ray, I don't know what his rank is. I think it's Ray.
- Q Right.

- He was talking to him and he came back in his car, 1 A 2 got a notebook out, big three-ring binder, big 3 thick thing. He was back at Sergeant Ray's car leaning in the window, they were flipping through 4 pages in the book. Sergeant Ray was on the phone 5 because I was turned around trying to watch to see 6 7 what was going on. So they did that for quite a 8 while back and forth, and they were talking and talking. You know, I was just looking out the 9 window. My wife is standing there and my daughter 10 11 is crying, you know. Eventually he did come and let me out of the car and uncuff me. 12
 - Q Were you issued any type of citation?
- 14 A Yeah. He gave me a citation for failure to show 15
- 16 Q That's what you think it was?

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- 17 A Properly identify myself or something like that.

 18 It was a general citation.
 - Q So you weren't taken anywhere by the officers; is that correct?
- 21 A No. I sat in handcuffs in the back of the car.
- Q How long did this incident take place; how long did it last?
- 24 A It seemed like quite a while, I'm thinking like 30, 40 minutes.

40 1 You have all this recorded? 0 2 A I had a lot of it recorded, yeah. 3 0 Does your phone show the time beginning of 4 recording and the time it ended? 5 A I don't know. It was an LG Chocolate phone. Ιt 6 wasn't a Smart phone, they didn't have Smart phones 7 then. All they had was a record button. 8 Q Did you go to court for this citation that was 9 issued to you? 10 A Yes. 11 How many times did you appear in court? Q 12 Α I had to get an attorney, go to court with me, and 13 we went there one time. MR. ELLIS: How many times did you 14 15 actually go to court? 16 Three times. A 17 Well, I'm asking him if he recalls. You Q 18 personally were in court three times; is that what you're saying? 19 20 Α Yes. 21 Q What was the outcome of that particular charge 22 that they charged you with, failure to produce identification? 23 24 A They decided to drop charges. 25 Who made that decision? 0

- 1 A I don't know.
- Q When you were in court when that decision was made, was the officer there?
- 4 A Yes, I believe so. I saw him there the first time, yeah.
- 6 Q The first time he was there?
- 7 A Yeah.
- 8 Q The last time was he there?
- 9 A I don't recall.
- 10 Q That would have been Officer Bright?
- 11 A Yes.
- 12 Q Let's go back to the handcuff incident. You

 13 produced photographs -- I saw the photographs in

 14 your complaint of the marks that they left on your

 15 wrists. Did you receive medical treatment for

 16 those wrist marks?
- 17 A No, I didn't go to the doctor for that.
- 18 Q Did you treat them with anything?
- 19 A There's really not much you can do about it.
- Three fingers up to your index finger go numb,
- can't really feel them for about three or four
- 22 days. Then for the next week to week and a half,
- 23 maybe two weeks they feel tingly, like pins and
- 24 needles, like they're asleep, and then you finally
- get sensation back.

- Do you have any effects from that handcuffing today?
 - A I don't believe so, no.
- 4 Q You didn't make any request for medical assistance 5 from the police officers, did you?
- 6 A No.

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- Q When the officer was disarming you, where was your wife standing?
 - A Depends on what point he was disarming me because at one point I was facing him and he told me to turn around, and then she was on my right and she'd then be on my left. You tell me at which point you want.
 - Q More importantly, how far away from you was she?
- 15 A She was standing right besides me.
- 16 Q You're showing arm's length?
 - A Three or four feet.
- 18 Q Was she standing like beside you or was she standing behind you or in front of you?
- 20 A She was beside me maybe a foot back maybe, if 21 that, but not behind me, just behind me here.
- Q At any point did you try to hand your gun to the officer?
- 24 A No, I just followed his instructions.
- 25 Q I forgot to ask this question, which I think is

- 1 there a round in the chamber?
- 2 A Oh, yeah.
- 3 Q Have you ever had any incidents with the police 4 since the incident as far as with carrying your 5 gun?
- 6 A No. I haven't carried openly since then.
- 7 O Have or haven't?
- 8 A Have not.
- 9 Q And why not?
- Don't want to be harassed, threatened of being shot, I don't want to be shot. You know, apparently they don't like citizens exercising their rights.
- Q Okay. You've never been shot by the police, have you?
- 16 A No.
- 17 Q Do you still have your concealed carry permit?
- 18 A Yes.
- 19 Q Do you carry your weapon concealed these days?
- 20 A Yes.
- Q When this all was going on, you said you had your dog with you.
- 23 A Yes.
- Q When the officer disarmed you, took your gun, what happened with the dog, who got the dog?

shot in front of my children and my wife in the 1 streets, so I did everything that he asked, 2 3 everything. When he made that statement to you, if you go for 4 0 your gun, I'm going to shoot you, where exactly 5 were your hands at that point? 6 He had asked me to turn around and put my hands in 7 A the air after I handed over my leash, so the only 8 9 thing I had was my phone and an open hand. 10 The open hand was your right hand? 0 11 A Yes, correct. Your gun at that point was still on you? 12 0 13 A Yes. 14 MR. ELLIS: Can you put on the record he had his hands raised indicating 15 16 what he was doing. I have nothing further. 17 MR. MADIGAN: You might want to ask 18 MR. ELLIS: 19 him about the recording because he lost 20 part of it. MR. MADIGAN: I was going to ask you 21 22 for it. MR. ELLIS: Well, no, I've got part 23 of the recording because when he went to 24 re-record, he erased the original 25

recording. You might want to question him about that.

- Q I'll ask you about the recording. Tell me what happened to the recording that you made.
- A When I got out of the police car, I asked my wife for the phone because I wanted to make sure it was still recording and it was. It was really sunny that day -- you have to touch the phone to make it light up brighter so you can see it, and when I did that, it stopped recording, and if you don't press save recording, it does not save it. So it was gone. I'm just like I was really mad that I did that. So I started recording again from that point on, that's what I have, when I got out of the police car.
- Q So the recording that you actually have was from after you were handcuffed and put in the car?
- A After I was handcuffed and put in the car and then released out of the car.
- Q Is that where that recording starts; is that what you're saying?
- A Yes.

MR. ELLIS: I have that part and I will give it to you.

MR. MADIGAN: Okay. I have nothing

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1	further.	
2	MR. ELLIS: Shawn, you can waive	
3	signature, but I recommend you reserve	
4	your signature.	
5	THE WITNESS: I'll reserve	
6	signature.	
7	(Deposition concluded at 10:14 a.m.)	
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10	SHAWN C. NORTHRUP	
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1 CERTIFICATE 2 STATE OF OHIO SS. 3 COUNTY OF LUCAS 4 I, Vicki L. Plant, Court Reporter and 5 Notary Public for the State of Ohio, do hereby certify 6 that SHAWN C. NORTHRUP was by me first duly sworn; that 7 the testimony given was reduced to stenotype; that the foregoing is a true and correct transcript of the 8 testimony so given; that this deposition was taken at 9 10 the time and place in the foregoing caption specified. 11 I do further certify that I am not a relative, employee, or attorney of any of the parties 12 or counsel employed by the parties hereto or 13 14 financially interested in this action, nor am I or the court reporting firm with which I am affiliated under a 15 16 contract as defined in Civil Rule 28(D). 17 IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal of office at Toledo, 18 19 Ohio, this 15th day of January, 2014. 20 21 22 23 Notary Public in and for the 24 State of Ohio

My Commission expires August 17, 2016.